

# **State of Alaska FY2003 Governor's Operating Budget**

## **Department of Natural Resources Title Acquisition & Defense Component Budget Summary**

## **Component: Title Acquisition & Defense**

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### **Component Mission**

To facilitate the acquisition, acceptance, conveyance, and defense of land or an interest in land on behalf of the State of Alaska. (Differs from SLA 2001, CH90, Section 112)

The work accomplished by the Title component is intended to accomplish five major outcomes:

- I. Acquire ownership (statehood entitlement and more)
- II. Secure clear title
- III. Issue clear title documents under various disposal authorities to the private sector, Municipalities and other governmental entities.
- IV. Defend State title
- V. Maintain administrative records of State ownership

The outcomes of this component are basic mandates of any state in the Union. The Constitution of Alaska in Article VIII sets forth the policy concerning natural resources. Sec. 6 states as follows: "State Public Domain...The legislature shall provide for the selection of lands granted to the State by the United States, and for the administration of the state public domain." These outcomes therefore are expectations of the public to acquire and defend the State's valuable assets of land and the associated resources as any prudent person would manage his or her own personal assets.

### **Component Services Provided**

The tasks associated with this component are fundamental tasks of doing business as a State. However, the ownership of land and its related resources such as timber, minerals and oil and gas form the economic base for the State of Alaska. As Alaska attained statehood the U.S Congress had little money to give to the new State, but recognized the value of land and resources and thus allocated up to 106.2 million acres of land under a variety of federal land entitlement authorities related to statehood. Additionally, as an incident of statehood under the equal footing doctrine we received title to approximately 65 million acres of shorelands, tidelands, and submerged land, which make up our inland waterbodies and marginal seas. Finally, we are acquiring title by direct purchase, donation, escheat, condemnation and grants under special congressional legislation. Also Congress extended the offer of a grant of easement for public access across vacant unappropriated public lands under RS 2477.

The Acquire Land or an Interest in Land (Acquire ownership) outcome deals with the following:

1. Statehood land entitlement - this category of acquisition deals with acquiring land from the federal BLM. This requires the review and negotiation of title documents as necessary prior to acceptance of title; appeals as necessary; recordation and security of original title documents; acreage accountability; maintenance of computer and hard copy records; and develop and maintain the Conveyance Priority List based on designated priorities and needs of State agencies.
2. Other Lands and Limited Holdings. Most other agencies do not have the authority to hold land title. Thus, when they purchase or are given land, the Division must review and complete the required title documents to ensure that clear title is acquired and maintained. For example, the Department of Fish and Game acquires weir or boat launch sites using federal funds; many rural communities acquire armory sites; etc. This category includes two different subcategories:
  - a. Other State Lands (OSL) - This category of acquisitions constitutes a variety of land authorities such as direct purchase, donations, condemnations and grants under special congressional legislation. This also includes Exxon Valdez Oil Spill acquisitions. These require the review of pertinent title documents, title insurance documents, ownership records, court documents, etc., the acceptance of title on behalf of the State of Alaska, recordation and security of original title documents, management rights and maintenance of computer and hard copy records.
  - b. Limited State Holdings (LSH) - This category of acquisitions constitutes less than fee title interest representing a variety of interests such as easements, airspace easements, clear zone easements, leases, fish wier permits, conservation easements, equitable servitude, etc. These title documents require the same review, acceptance,

recording, managements rights and maintenance as OSLs.

The Provide Title Reports (Secure clear title) outcome deals with:

1. Oil and Gas area wide lease sales
2. Disposal of fee title
3. Complex title issues not discernable from the computer records

Title reports are completed to ensure that the State still owns the land or resource and that no cloud has encumbered the title. Often the complex title reports require in depth research to determine the exact interest retained by the State if any (example old Valdez townsite). Title reports are always completed as part of Oil and Gas Lease Sales, and identify the exact State ownership for large projects such as the TAPS renewal and the Gasline.

The Issue Conveyance Documents (issue clear title documents under various disposal authorities to the private sector, Municipalities and other governmental entities) outcome deals with:

The issuance of Patents and Quit Claim Deeds. These documents are a result of completion of all requirements of a disposal authority to pass title to private individuals, corporations and any other entity in the private sector; Municipalities and/or Boroughs and any governmental entity. This project provides consistency in reservations, wording format, authorities and a final title check to ensure clear title is passed.

Title Defense (Defend State title) outcome deals with:

Defending state title against challenges is a fundamental responsibility of the state. The state reviews all title decisions - conveyance to the state, ANSCA corporations, etc. - to ensure that state interest is protected. That is, BLM decisions are reviewed to ensure that access to state land or state title is not compromised by the decision. Over the past years, the state has negotiated changes to 14.5% of BLM decisions to protect state interest. Specifically, this project accomplishes the following:

1. Respond to litigation - This category requires working with the Attorney General assigned to the case and providing technical research data to the AG which includes title documents, case files, summary of actions, maps and anything necessary to support the AG.
2. Completion of Mental Health Trust Lands Settlement - This category requires correction of title documents, formal determination of replacement lands and any action needed to fulfill the Mental Health Trust Lands Settlement.
3. Respond to School Trust Lands Litigation - This category requires working with the Attorney General assigned to work the case and the Depts. Of Revenue and Education as well as the beneficiaries. (This work is funded through a separate appropriation. Funding for this work is not included in this component.)
4. Review Native Allotments - This category requires the review of numerous BLM documents issued concerning Native Allotment claims, which may affect State land title and public access. Respond to the Aguilar court case stipulations as to hearings. Provide technical research and documents to the Attorney General assigned the case. Provide comment to AG on settlement negotiations.
5. Reconvey land wrongfully conveyed to the State - This category primarily affect Native Allotment claims where BLM has conveyed the land title to the State. After initial review the State in most cases agrees to voluntarily reconvey the land following the State's decision and public notice process. BIA has assigned two staff members to work on these cases with guidance and final approval provided by State staff.
6. Review ANCSA decisions - This category requires the review of ANCSA decisions to determine if BLM's decision affects State title. If problems exist we negotiate with the corporations and BLM. If resolutions cannot be reached we appeal. During appeal process provide technical research and documents to Attorney General assigned to case and comment on any proposed settlement.
7. Review Sec. 17(b) of ANCSA easements - This category requires the review and coordination of State comments affecting public access across Native Corporation lands to public lands. If problems exist we negotiate with the corporations and BLM. If resolution cannot be reached we appeal. During appeal process provide technical research and documents to Attorney General assigned to case and comment on any proposed settlement.
8. Any challenge to the State's Title.

The Maintain Administrative Records of State Ownership outcome deals with:

1. Maintain case files (hard paper copies of all documents related to the acquisition and/or the disposal of a parcel of land documenting reservations and covenants attached thereto). Maintain documents in an orderly and logical manner in order to retrieve the information in an efficient manner.
2. Maintain and enter into the State of Alaska's computer system LAS data reflecting ownership of land and or an interest in land. A special title sub-system has been developed for the statehood entitlement, which must be maintained.
3. Scan and maintain certain records for access over the Internet and retrieval of information.

4. Ensure that title acquisitions and disposals are forward for notation to the graphic record and review final product for quality control.

### **Component Goals and Strategies**

Encourage resource development that creates Alaska jobs and ensures economic growth in all regions of the state.

- To acquire land and resources for development, land disposals and for public use
- Secure clear Title
- Issue marketable title through conveyance documents to the private sector and other government entities.
- Review and respond to all Native Allotment and ANCSA conveyance decisions by the federal government in order to defend the States land title and to reserve access to public land and waters.
- Support Navigability assertions/litigation

Additional output and measurement information is available upon request from DNR Admin Services Manager (Nico Bus 465-2406).

### **Key Component Issues for FY2002 – 2003**

1. Staff from this component is responsible for completing a valuation of School Trust lands as part of the The School Trust Lands litigation, Kasayulie v. State of Alaska Case No. 3AN-97-3782 CIV. The valuation is required as part of a larger litigation issue concerning funding of rural schools. However, Judge Reese has ruled on the plaintiffs' Motion for Partial Summary Judgment on Breach of the School Lands Trust. Judge Reese found two breaches of trust: (1) the redesignation of school lands in 1978, and (2) the failure to value school lands in 1978. This case is currently in litigation status.

2. Review of Sec. 17(b) of ANCSA. The identification and reservation in conveyance documents to Native corporations for easements to the United States for access across ANCSA private land to public lands and public waters. There are two potential issues:

(A) Management of 17(b) Easements. The federal Interior Department is attempting to pressure the State of Alaska to assume management of reserved easements providing access to State lands and State public waters. Management means identifying the location of the easement on the ground, signing the easement to identify it to the public explaining the allowable uses to the public, clean up trash, maintain the easement (brushing, fixing mud spots, maintaining bridges, etc.), and resolving trespass. The State of Alaska's position is that the easements are reserved to the United States and it is the federal government's responsibility to manage these easements for the use and enjoyment of all Alaskans.

(B) Termination of 17(b) Easements - In U.S. DOI regulations 43 CFR 2650.4-7(a)(13) if an easement has not been used for the purposed for which it has been reserved, the BLM Director shall terminate the easement effective December 18, 2001, unless it provides access to isolated tracts of public lands. The implementation of this regulation has no statutory basis. We believe this implementation will have a serious affect on public access in Alaska. This component several years ago initiated action to stop the implementation; however, the outcome is still to be determined.

### **Major Component Accomplishments in 2001**

#### **AGGRESSIVELY ASSERT AND DEFEND STATE INTERESTS - PROTECT STATE INTERESTS**

- Review Native Allotment actions taken by BLM affecting State land and public access - 1832 actions
- Review BLM ANCSA decisions and 17(b) easement reservations to protect public access - 139 actions

- Complete title reports to insure ownership and determine third party rights - 721 actions
  - Issue conveyances - 535 actions
  - Special projects and response to litigation - 29 action
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- MAINTAIN CONCISE, ACCURATE, AND READILY AVAILABLE LAND RECORDS
- Create and maintain land Title Records files and tracking for control of title conveyances. - 198,948 records
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### **Statutory and Regulatory Authority**

The Title Component operates under the following statutory authority:

Statutory

AS38.04.055

AS38.05.020(b)(8)

AS38.05.030(c) and (d)

AS38.05.035(a)(12)

AS38.05.035(b)(9)

AS38.05.035(e)(6)

AS38.05.127(a)(12)

AS38.50.090

AS38.50.150

AS38.95.210

## Title Acquisition & Defense

### Component Financial Summary

*All dollars in thousands*

	FY2001 Actuals	FY2002 Authorized	FY2003 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	863.4	904.6	931.5
72000 Travel	3.6	19.2	19.2
73000 Contractual	68.1	138.4	144.4
74000 Supplies	62.8	20.1	25.1
75000 Equipment	33.5	0.0	4.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>1,031.4</b>	<b>1,082.3</b>	<b>1,124.2</b>
<b>Funding Sources:</b>			
1004 General Fund Receipts	968.7	982.8	1,079.0
1007 Inter-Agency Receipts	51.1	89.4	35.0
1053 Investment Loss Trust Fund	5.4	0.0	0.0
1108 Statutory Designated Program Receipts	6.2	10.1	10.2
<b>Funding Totals</b>	<b>1,031.4</b>	<b>1,082.3</b>	<b>1,124.2</b>

### Estimated Revenue Collections

Description	Master Revenue Account	FY2001 Actuals	FY2002 Authorized	FY2002 Cash Estimate	FY2003 Governor	FY2004 Forecast
<b><u>Unrestricted Revenues</u></b>						
None.		0.0	0.0	0.0	0.0	0.0
<b>Unrestricted Total</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b><u>Restricted Revenues</u></b>						
Interagency Receipts	51015	51.1	89.4	239.0	35.0	35.0
Statutory Designated Program Receipts	51063	6.2	10.1	0.0	10.2	0.0
<b>Restricted Total</b>		<b>57.3</b>	<b>99.5</b>	<b>239.0</b>	<b>45.2</b>	<b>35.0</b>
<b>Total Estimated Revenues</b>		<b>57.3</b>	<b>99.5</b>	<b>239.0</b>	<b>45.2</b>	<b>35.0</b>

## Title Acquisition & Defense

### Proposed Changes in Levels of Service for FY2003

The DMLW is a participant in the management of Oil and Gas leases and actively manages the surface activities outside of the lease boundaries. In addition, the DMLW provides title reports to the Division of Oil and Gas for all oil and gas lease sales. With the introduction of Shallow Gas Leasing and the expansion of exploration into new and more remote areas of the North Slope, current staffing levels are inadequate to address these programs. This increment requests one additional Natural Resource Officer II (Range 16) to supplement the existing program.

As part of the **Oil Safety & Development Initiative** \$80.0 GF is requested as an increment. The state may only lease land where it owns the subsurface rights. Therefore, before a lease may be issued in accordance with AS 38.05.180(f) and (m), DNR must conduct a title search. With current staffing DMLW has a 6-month backlog for O&G lease sale title reports. With the addition of one Natural Resource Officer II, the division will be able to stay on track with DNR's scheduled O&G activities.

### Summary of Component Budget Changes

#### From FY2002 Authorized to FY2003 Governor

*All dollars in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2002 Authorized</b>	<b>982.8</b>	<b>0.0</b>	<b>99.5</b>	<b>1,082.3</b>
<b>Adjustments which will continue current level of service:</b>				
-Year 3 Labor Costs - Net Change from FY2002	16.2	0.0	3.7	19.9
<b>Proposed budget decreases:</b>				
-Reduce Interagency Receipt Authority to Anticipated Level	0.0	0.0	-58.0	-58.0
<b>Proposed budget increases:</b>				
-Oil Safety & Development Initiative	80.0	0.0	0.0	80.0
<b>FY2003 Governor</b>	<b>1,079.0</b>	<b>0.0</b>	<b>45.2</b>	<b>1,124.2</b>

## Title Acquisition &amp; Defense

## Personal Services Information

Authorized Positions		Personal Services Costs		
	<u>FY2002</u>	<u>FY2003</u>		
	<u>Authorized</u>	<u>Governor</u>		
Full-time	14	14	Annual Salaries	690,456
Part-time	0	0	COLA	15,749
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	251,271
			<i>Less 2.71% Vacancy Factor</i>	(25,976)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>14</b>	<b>14</b>	<b>Total Personal Services</b>	<b>931,500</b>

## Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Clerk II	1	0	0	0	1
Natural Resource Mgr I	1	0	0	0	1
Natural Resource Mgr II	1	0	0	0	1
Natural Resource Mgr III	1	0	0	0	1
Natural Resource Off I	3	0	0	0	3
Natural Resource Off II	5	1	0	0	6
Natural Resource Tech II	1	0	0	0	1
<b>Totals</b>	<b>13</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>14</b>